IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.19648 of 2006

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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SWATIBEN GUNVANTRAY DHORDA - Petitioner(s)
Versus
HARSHADRAY NATWARLAL DHORDA - Respondent(s)

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Appearance :
MR DC SEJPAL for Petitioner(s) : 1,
MR AJ SHASTRI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 20/09/2006
ORAL JUDGMENT

1. Heard Mr.D.C. Sejpal, learned advocate appearing on behalf of the defendant, and Mr.A.J.Shastri, learned advocate appearing on behalf of the plaintiff. RULE. Mr.Shastri is directed to waive service of Rule.

2. The facts and circumstances and the issues raised in this petition are similar in nature to those stated in Special Civil

Application No.18021 of 2006, except for the name of the parties and other details like Arbitration Petition number, Regular Civil Suit number, etc. The contentions raised by both the sides are identical in nature and hence, for the sake of brevity, the facts and contentions are not recorded in detail.

3. For the reasons stated in order of even date made in Special Civil Application No.18021 of 2006, the following order is made:

> In the aforesaid facts and circumstances, the impugned order cannot be permitted to stand and is hereby quashed and set aside. The trial Court not having decided the issue raised by the defendant, in the interest of justice and in the fitness of things, application Exh.13 stands revived and the trial Court shall, after hearing both the sides, without permitting any further evidence to be led in this regard, decide the issue raised by the defendant in application Exh.13. The trial Court shall take note of the averments made in Arbitration Petition No.30 of 2006 while disposing off application Exh.13.

4. The petition is allowed accordingly. Rule made absolute There shall be no order as to costs.

Sd/-
[D.A. MEHTA, J]

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